

REMARKS

Claims 1-6 are pending in the present application. With entry of this Amendment, Applicant amends claims 1, 4, 5 and 6. Reexamination and reconsideration are respectfully requested.

Applicant notes with appreciation the indication of allowable subject matter of claims 1-6 over the prior art.

A. Rejections Under 35 U.S.C. § 101

Claim 1 was rejected under 35 U.S.C. § 101. Claim 1 is directed to an “image processing apparatus,” and thus the claim is firmly within a statutory class, such as a “machine.” It is noted, and the Examiner’s response notes as well, that *In re Bilski*, 545 F.3d 943 (Fed. Cir. 2008) (*en banc*) (*cert. granted*) pertained to a discussion of process patents, and should not affect that patentability of claim 1 directed to an apparatus.

Applicant appreciates the Examiner’s courtesy during a telephone interview on June 22, 2009. In the interview, the Examiner noted his concern regarding the recitation of “procedures” in claim 1. Such references to procedures is appropriate (*see, e.g.*, MPEP 2173.05(g)) and does not affect the analysis of an apparatus claim under § 101 (*see, e.g.*, MPEP 2106(IV)(B)). Thus, Applicant respectfully requests that the rejection be withdrawn with respect to claim 1.

Claim 5 was rejected under § 101 as well. Claim 5 is directed to a process and is tied to specific physical device elements, such an input device, a storage device, an operating element and a processing device. Moreover, the process here operates on a plurality of input image signals. This is a valid transformation of an article because the input signals are data that represent “physical and tangible objects,” and it is clear “how or from where the data was obtained or what the data represent[s].” *Bilski*, 545 F.3d at 962-63. Thus, the instructions do not represent abstract computer algorithms that simply execute a mathematical process, but operate on specific input signals from the input device. Accordingly, Applicant respectfully requests that the rejection be withdrawn with respect to claim 5.

Claim 6 was rejected under § 101 as well. Claim 6 recites a “computer-readable storage medium,” encoded with a particular set of computer-readable instructions. During the interview, the Examiner appeared to indicate that this language was sufficient in overcoming the § 101 rejection.

B. Rejections Under 35 U.S.C. § 112

Claims 1, 5 and 6, as amended, address the Examiner’s concerns regarding grammatical and idiomatic errors, as well as the antecedent basis and indefiniteness in view of the Examiner. In particular, the phrase “specified specifies the procedures” has been eliminated from the claim language. All terms used in the claim language are used or defined in the specification, or are apparent when read in light of the specification. For example, paragraph [0032] of the published application gives a description of exemplary device elements, paragraphs [0034] – [0038] describe an exemplary input device and paragraphs [0048] – [0057] describe the storage and selection of processing procedures. An exemplary processing device function is described in, for example, paragraphs [0055], [0057] and [0083] – [0084].

Claim 4 has been amended in view of the amendment to claim 1.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

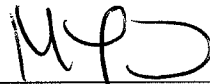
If, for any reason, the Examiner finds the application other than in condition for allowance, Applicant requests that the Examiner contact the undersigned attorney at the Los Angeles telephone number (213) 892-5630 to discuss any steps necessary to place the application in condition for allowance.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing Docket No. 393032044800.

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Respectfully submitted,

By



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